

Claims 4, 13, 15 and 20 have been rejected under 35 U.S.C. § 103(a), as being unpatentable over Baker (US Pat. 6,348,859 B1).

Claims 6 and 18 have been rejected under 35 U.S.C. § 103(a), as being unpatentable over Baker (US Pat. 6,348,859 B1) in view of Kim (US Pat. 6,686,837 B2).

Claim 7 has been rejected under 35 U.S.C. § 103(a), as being unpatentable over Gouda (US Pat. 4,891,736).

Applicant respectfully traverses the rejections and requests reconsideration of the rejections and reconsideration of the application in light of the following amendment, evidence, and remarks.

#### **AMENDMENT**

Please amend claim 7 as shown on the attached replacement page. As discussed in the Remarks, claim 7 is amended consistent with the specification and drawings to make explicit that light emitting means positioned at the periphery of a forward portion of the helmet is viewable by a wearer. A clean copy and a marked copy of the replacement claim is included in accordance with the rules for making amendments.

#### **REMARKS**

With respect to the rejection of claims 1, 3, 8-12, 14, 16, 17, and 19, under 35 U.S.C. §102(e) as being anticipated by Baker (US Pat. 6,348,859 B1), Applicant herein swears back of the reference under 37 C.F.R. 1.131 on the basis that the Invention is not "described in a patent granted on an application for patent by another filed in the United States before the

invention thereof by the applicant” as required by §102(e). In support, Applicant provides the attached Declaration of the inventor, and Exhibits A and B.

As evidenced by the attached Declaration and accompanying Exhibits A and B, the Invention was conceived in this country before the filing date of Baker on December 27, 1999, and was diligently reduced to practice no later than the filing date of the present Application. Thus, under 35 U.S.C. §102(e), 37 C.F.R. §1.131, and MPEP §715.07, Baker does not bar the grant of a patent for the present Invention.

With respect to the rejection of claims 4, 13, 15, and 20, under 35 U.S.C. §103(a) as being obvious in light of Baker (US Pat. 6,348,859 B1), Applicant respectfully submits that the disqualification of the primary reference, Baker, negates the rejections.

With respect to the rejection of claims 6 and 8, under 35 U.S.C. §103(a), Applicant respectfully submits that the disqualification of the primary reference, Baker, negates the rejections based upon modifications to Baker in view of Kim (US Pat. 6,686,837 B2). Absent the primary reference, the §103(a) rejections fail to state a *prima facie* case of obviousness.

With respect to the rejection of claim 7 under 35 U.S.C. §103(a), as being unpatentable over Gouda (US Pat. 4,891,736), Applicant has studied the reference cited and respectfully submits that there is nothing in Gouda, which would teach the “light transmitting means extending through the helmet from the light emitting means to a position at the periphery of a *forward position of the helmet*”, [emphasis added], according to the Invention. Nor is there anything in the reference which would guide a person skilled in the relevant arts to provide a “means of transmitting to the user that the deceleration-activated light is being activated” as described in the specification (at paragraph [020]) and as shown in the drawings (Figure 1, reference numeral 32). It is respectfully submitted that the cited reference does not teach or suggest, under the meaning of 35 U.S.C. §103(a), that the activation of the light source be

made viewable by a user of the Invention. Since this limitation was expressed in the specification and drawings, Applicant has submitted an amendment to claim 7 to explicitly include this limitation in the claim without adding new matter to the Application.

Although the Baker reference has been overcome on the basis the date of the invention, Applicant proffers the following additional remarks showing that the Invention may be readily and significantly differentiated from the would-be reference on additional grounds. Baker teaches transmitter/receiver circuitry activated by the application of a brake lever. The Invention, on the other hand, provides a safety light independently responsive to deceleration, rather than to an application of brakes. The Invention is also designed to be self-contained, and not reliant on a transmitter/receiver scheme as used in Baker.

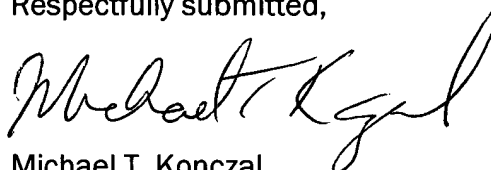
Additionally, the connection of one or more "tilt switch[es]" or "an *omnidirectional* motion switch, such as an accelerometer", mentioned in passing in Baker (col. 6, lines 33-44) do not disclose, teach or suggest the Invention. On the contrary, Baker does not recognize or address the problem of avoiding potentially spurious triggering of its visual display, such as by the tilting of the wearer's head side-to-side, or front-to-back, but teaches away from the invention by actually embracing the turning on of the visual display by these events. Moreover, Baker fails to disclose any hint as to how the suggested switches might operate, either separate from or in concert with, the transmitter/receiver scheme described throughout. The Invention, on the other hand, discloses a circuit responsive to deceleration "along the *primary direction* of travel" and the filtering out of "deceleration in other directions", e.g., at paragraph 020. Thus, it is respectfully submitted that even if Baker were not disqualified from consideration as a reference based on the relevant dates, it would nevertheless be overcome as not disclosing the present Invention.

**CONCLUSION**

Applicant respectfully requests favorable reconsideration of claims 1-20 and allowance of all claims in light of the amendment, evidence, and discussion herein.

If the Examiner has any other questions or concerns regarding this application, the Examiner is encouraged to contact the undersigned attorney to resolve these matters by Examiner's Amendment and/or a teleconference wherever possible.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael T. Konczal". The signature is fluid and cursive, with the first name "Michael" being more prominent and the last name "Konczal" written in a more compact, cursive style.

Michael T. Konczal  
Reg. No. 45,475

Michael T. Konczal  
P.O. Box 863656  
Plano, TX 75086

(214) 228-3641 - tel  
(972) 608-2947 - fax